

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROBERT HARRINGTON,

Petitioner,

v.

KEN McKEE,

Respondent.

Case No. 1:05-cv-468

Hon. Wendell A. Miles

ORDER

This matter is before the Court on Petitioner's Motion for Damages and Injunctive Relief. (Dkt. #8). As discussed herein, Petitioner's motion is **denied**.

On July 8, 2005, Petitioner submitted the present petition for writ of habeas corpus asserting several claims, one of which is that he was sentenced in violation of his constitutional rights. In the present motion, Petitioner requests that he be granted injunctive relief (i.e., a writ of habeas corpus) as a result of his allegedly unconstitutional sentencing. Petitioner further requests that he be awarded monetary damages pursuant to 42 U.S.C. § 1983.

Petitioner's request for "injunctive relief" is duplicative of claims asserted in his petition for writ of habeas corpus. This particular request asserts no new or additional claims to those presented in Harrington's petition for writ of habeas corpus. Accordingly, Petitioner's request for injunctive relief is denied. Petitioner's request for monetary damages under 42 U.S.C. § 1983 is also denied. In *Heck v. Humphrey*, 512 U.S. 477 (1994), the Supreme Court held that a state prisoner cannot assert a cognizable claim under § 1983 for an alleged unconstitutional conviction or for "harm caused by actions

whose unlawfulness would render a conviction or sentence invalid” unless a prisoner shows that the conviction or sentence has been “reversed on direct appeal, expunged by executive order, declared invalid by a state tribunal authorized to make such determination, or called into question by a federal court’s issuance of a writ of habeas corpus.” *Id.* at 486-87.

As articulated herein, Petitioner’s motion is denied.

IT IS SO ORDERED.

Dated: December 8, 2005

/s/ Wendell A. Miles
Wendell A. Miles
Senior U.S. District Judge